

REMARKS

The Office Action dated January 25, 2007 has been received and carefully noted. Claims 1-51, 54-59 and 71-73 were examined. Claims 28, 31, 34, 35, 40-44, 47-50, 54-59 and 71-73 were rejected under 35 U.S.C. § 102(e) and claims 1-3, 7-26, 30, 32, 33, 36-39, 45 and 46 were rejected under 35 U.S.C. § 103(a). Claims 4-6, 27, 29 and 51 were objected to as being depended upon a rejected base claim, but would be allowable if rewritten in dependent form including all the limitations of a base claim and any intervening claims.

Claims 28-30, 34 and 39-41 are amended. No new matter has been added or the scope expanded. Claims 52-53 and 60-70 remain cancelled. Claims 1-3, 7-26, 28, 30-50, 54-59 and 71-73 remain pending in the application.

Reconsideration of the pending claims is respectfully requested in view of the amendments and the following remarks.

I. Claims Rejected Under 35 U.S.C. § 102

A. Anticipation Rejections Based on Ohmura

Claims 28 and 40 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. US 2004/0130645 to Ohmura et al. (hereinafter “*Ohmura*”).

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *MPEP* § 2131. Applicants respectfully submit that each and every element in the claims is not set forth in the cited reference.

In regard to claim 28, this claim includes the element of “a handle coupled to the housing having a stowed orientation and a deployed orientation.” The Examiner points to the apparatus in Figure 27 of *Ohmura* to teach this claim. This apparatus is designed to be hands free and “is provided with mounting tools 231 for mounting by putting those on the ears like spectacles.” (*Page 21, para. [0381].*) According to its plain meaning, the noun, “handle” is defined as “[a] part that is designed to be held or operated with the hand” (*The American Heritage® Dictionary of the English Language, Fourth Edition*, Houghton Mifflin Company, 2004).

<http://dictionary.reference.com/browse/pattern> (accessed: April 25, 2007)). The structure relied upon by the Examiner to disclose this element, mounting tool 231 in *Ohmura* is mounted by putting on the ear like spectacles and is not held or operated by hand. Thus, *Ohmura* does not teach each of the elements of claim 28. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 28 based on *Ohmura* is requested.

Claim 40 depends from independent claim 28 and incorporates the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 28, this claim is not anticipated by *Ohmura*. Accordingly, reconsideration and withdrawal of the anticipation rejection of this claim based on *Ohmura* is requested.

B. Anticipation Rejections Based on Rallison

Claims 28, 47-50 and 55-59 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,160,666 issued to Rallison et al. (hereinafter “*Rallison*”).

In regard to claim 28, similar to the discussion above in regard to *Ohmura*, *Rallison* fails to disclose a handle held by a laterally displaced hand during use. No reasonable interpretation exists by which the strap of *Rallison* could be found to be such a handle. Thus, *Rallison* does not disclose each of the elements of claim 28. Applicants respectfully request reconsideration and withdrawal of the anticipation objection of claim 28 based on *Rallison*.

In regard to claims 47-50, these claims depend from independent claim 28 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 28, these claims are not anticipated by *Rallison*. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims is requested.

In regard to claim 55, this claim includes the element of “the visor having a cross-dimension selected to maintain a predetermined focal distance between the first lens and an eye of the user.” *Rallison* discloses a lens 76 that is a “plano - convex or meniscus lens 76 for providing a substantially flat field of focus to the user,” which diverges the light from the image generator 74 to be reflected by the fold mirror 78. The user views the display through a fold mirror 78. (*See Figures 8 and 9 of Rallison.*) The Examiner also points to a digital or film camera with a viewfinder for a similar setup and states “a user can look through the viewfinder and adjust focus manually.” (*Office Action, page 3.*) The reason the user is provided such a

mechanism to adjust the focus is because the eye is not positioned at a predetermined spot to view the image in focus. An adjustment of the focal distance between the lens and the eye is required to produce an image that the eye can see clearly. Thus, change in the focal distance between the lens and the eye is required in a digital or film camera. Similarly, the structure of *Rallison* does not enforce any limitation where the eye is positioned in relationship to the lens. In fact, *Rallison* discloses that “there is an amount of space 26 between the eye position of the user 28 and the portion of the apparatus 32 which resides in front of the user’s eyes sufficient to accommodate the user’s eyeglasses.” (*Column 4, lines 12-15*). This implies that cross dimension of *Rallison* does not maintain a predetermined focal distance between the first lens and an eye of the user. Adjustment by the user is required to get the eye in the correct position to view the image. Such an adjustment is provided by the slider switch 46. Slider switch 46 in figure 1 is used to select “between stereo and non stereoscopic views and the like.” (*Fig 1 and Column 4, lines 61-62*). Thus, the visor of *Rallison* cannot be said to maintain a predetermined distance between the lens and the eye of the user. Therefore, the Examiner has failed to establish that *Rallison* teaches each of the elements of claim 55. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 55 is requested.

In regard to claims 56-59, these claims depend from independent claim 55 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 55, these claims are not anticipated by *Rallison*. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims is requested.

C. Anticipation Rejections Based on Bronson

Claims 28, 31, 34, 35 and 41-44 stand rejected under 35 U.S.C.102(e) as allegedly being anticipated by U.S. Patent No. 6,384,863 issued to Bronson (hereinafter “*Bronson*”).

In regard to claim 28, this amended claim now includes the element of “...the handle and digital display assembly forming any one of an obtuse or an acute angle with the handle extending downward from the digital display assembly.” In *Bronson*, the microdisplay viewfinder 220, which the Examiner has identified as disclosing the digital display assembly, is not rotatable about the housing of lens assembly 200, which has been identified as disclosing the housing. As such, they cannot form an obtuse or an acute angle with each other. The Examiner has not indicated and the Applicants have been unable to discern any part of *Bronson* that

discloses this element of claim 28. Thus, *Bronson* does not disclose each of the elements of claim 28. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 28 based on *Bronson* is requested.

In regard to claims 31, 34, 35, and 41-44, these claims depend from independent claim 28 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to claim 28, these claims are not anticipated by *Bronson*. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims is requested.

D. Anticipation Rejection Based on Havey

Claim 54 stands rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,597,346 issued to Havey et al. (hereinafter “*Havey*”).

In regard to claim 54, this claim, as amended, includes the element of “a pointer interface providing *absolute mapping* between a pointer button and a location in a display of the display assembly wherein substantially all functions of the apparatus can be accessed using the pointer interface and the execute input interface” (emphasis added). The Examiner has argued that *Havey* teaches a computer mouse which would read on this claim. The Examiner in earlier Responses to Argument sections has used both temporal domain and space domain arguments to allege that movement of mouse cursor are absolute mapped to displacement of the mouse. Even if one were to concede, solely for the sake of argument, that movement of the mouse cursor follows the movement of mouse in real time, it does not read on the claim because use of time would be a time domain mapping and not displacement mapping. Coming to displacement argument, the Examiner’s contention the “point of the cursor on the screen would be at different point on the screen with the same distance moved of the mouse” (*Office Action, page 11*) misses the point. The cursor on the screen may be at a different position depending on mouse movement but that position is relative to the displacement of the mouse from any arbitrary start position of the physical mouse. This can be verified by lifting mouse of the surface it is being used on and moving it to a different location and the pointer on the screen would not change its position. The movement of the mouse cursor mapping to mouse movement is not absolute in *Havey*. Thus, *Havey* does not teach all of the elements of claim 54. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 54 based on *Havey* is requested.

E. Anticipation Rejection Based on Taguchi

Claims 71-73 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,871,010 issued to Taguchi et al. (hereinafter “*Taguchi*”).

Claim 71 includes the elements of “a display integrated into the camera, the display having a first region to display first still image at a full display resolution; and a second region to simultaneously display a second still image at substantially reduced resolution.” The recording apparatus taught by *Taguchi* displays in the viewfinder *a moving picture* and a still picture unlike the current claimed invention. The Examiner argues in the Office Action that the moving picture is simply a series of still images. A digital video signal is used to produce the moving picture in *Taguchi*. (*Column 3, lines 31-33.*) As it is well known in the industry, standard digital video signals use video compression to reduce bandwidth. Video compression techniques reduce the required bandwidth by utilizing only the differences between the individual frames of the video signal and do not encode still pictures. Thus, the moving picture is not a series of still pictures. Thus, *Taguchi* does not teach each of the elements of claim 71. Accordingly, reconsideration and withdrawal of the anticipation rejection of this claim is requested.

In regard to claim 72 and 73, these claims depend from independent claim 71 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 71, claims 72 and 73 are not anticipated by *Taguchi*. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

II. Claims Rejected Under 35 U.S.C. § 103

A. Obviousness Rejection based on Kanai in view of Abe

Claims 1-3, 7, 21 and 22 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Publication No. 2001/0055155 by Kanai et al. (hereinafter “*Kanai*”) in view of U.S. Patent No. 5,581,399 issued to Abe (hereinafter “*Abe*”).

To establish a *prima facie* case of obviousness: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference; (2) there must be a reasonable expectation of success; and (3) the references when combined must teach or suggest all of the claim limitations. MPEP § 2142. Applicants respectfully submit that a *prima facie* case of obviousness has not been established.

Claim 1, on which claims 2, 3, 7, 21 and 22 depend, includes the element of “binocular digital display assembly coupled to the housing and rotatable about the housing between a plurality of angular positions which can be mechanically maintained during use.” The Examiner identifies the center body 11 in figure 1 of *Kanai* as disclosing a housing and that L1 coupled to center body 11 discloses a binocular assembly. (*Office Action, Page 13.*) But, L1 is not rotatable about the center body 11 as recited in claim 1. The section of *Kanai* that the Examiner points to teach this element states that “the grip portions 12 are rotatable with respect to the center body 11.” (*Page 2, section [0059].*) It is the grip and not the display assembly that rotates around the housing in *Kanai*. Thus, *Kanai* does not teach or suggest this element of claim 1. *Abe* does not cure this defect of *Kanai*. *Abe* discloses a binocular camera with similar arrangement as *Kanai*. Applicants are unable to discern and the Examiner does not identify any section of *Abe* where it is disclosed that the binocular digital display assembly is coupled to the housing and can be rotated about the housing. Thus, *Abe* does not teach or suggest all the elements of claim 1. Therefore, Applicants respectfully request that the obviousness rejection of claim 1 as being unpatentable over *Kanai* in view of *Abe* be withdrawn.

In regard to claims 2, 3, 7, 21 and 22, these claims depend from independent claim 1 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to claim 1, these claims are not taught or suggested by *Kanai* and *Abe* does not cure this defect. Accordingly, Applicants respectfully submit that independent claim 1 and its dependent claims 2, 3, 7, 21 and 22 are patentable over *Kanai* in view of *Abe*.

B. Obviousness Rejection based on Kanai in view of Abe and further in view of Blazek

Claim 16 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Kanai* in view of *Abe* and further in view of U.S. Patent No. 4,864,425 issued to Blazek et al. (hereinafter “*Blazek*”).

Claim 16 depends from independent claim 1 and incorporates the limitations thereof. Thus, at least for the reasons mentioned above, discussed in regard to the independent claim 1, *Kanai* in view of *Abe* does not teach or suggest each of the elements of this claim. *Blazek* does not cure this defect. The Examiner does not indicate and Applicants have been unable to discern any part of *Blazek* that cures this defect. Accordingly, reconsideration and withdrawal of the obviousness rejection of claim 16 is requested.

Further, Applicants would like to respectfully point out that claims 16 and 18 had been amended in the previous response to depend from claim 14 as suggested.

C. Remainder of Obviousness Rejections in the Office Action

Similarly, the remainder of the rejections in the Office Action mailed on January 25, 2007 are obviousness rejections of dependent claims where the primary references are *Kanai*, *Bronson*, and *Ohmura*. Each of the claims, namely claims 8-15, 17- 20, 23-26, 30, 32, 33, 36-39, 45 and 46 depends from independent claims 1 and 28 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above, discussed in regard to the independent claims, the primary references that are relied upon by the Examiner do not teach or suggest each of the elements of these claims. Further, additional references that the Examiner seeks to combine with the primary references do not cure the defects of the primary references that have been previously identified. The Examiner does not indicate and the Applicants have been unable to discern any part of the additional references, namely U.S. Patent No. 4,326,783 issued to Kawamura et al., U.S. Patent Publication No. 2001/0004268 by Kubo et al, *Abe*, *Rallison* or *Blazek* that cure these defects of the primary references. Each of the combinations of these references fails to teach the elements of claims 1 and 28, as amended, and consequently fails to teach or suggest each of the elements of the dependent claims. Accordingly, reconsideration and withdrawal of the obviousness rejection of these dependent claims are requested.

III. Allowable subject matter

Applicants note with appreciation the Examiner's indication that claims 4-6, 27, 29 and 51 contain allowable subject matter.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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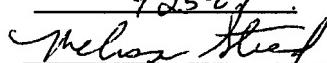


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Melissa Stead 4/25/07
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